

BOARD OF TRUSTEES

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Board of Zoning Appeals
Meeting Minutes
Case # C 5-2015 & A 1-2015
November 18, 2015

The Board of Zoning Appeals of Pierce Township, Clermont County, Ohio met at 6:30 p.m., on Wednesday, November 18, 2015, at the Pierce Township Administration Building, 950 Locust Corner Road.

CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

Chairman Gregg Gentile called the meeting to order. Board members answering roll call: Mr. Robert Sander, Mrs. Lynn Holman, Mr. Ray Lembke and Mr. Gregg Gentile. Township personnel who were also present: Mr. Tim Hershner, Administrator and Zoning Inspector, Mr. Tom Keating, Township Legal Counsel and Ms. Laura Bassett, Administrative Assistant.

OATH TAKEN BY ATTENDEES

Mr. Gentile administered the oath to attendees.

CASE # C 5-2015

Mr. Gentile opens the hearing on case C5 -2015 to Mr. Hershner. Mr. Hershner explained the variance for 901 Trevino Court for a front yard setback of 50 feet to permit the construction of a front porch roof but the side yard setback is only 14.5 feet not 15 feet which the zoning resolution requires. Mr. & Mrs. Brown asked for permission to be granted to add the front porch roof with a side yard setback of 14.5 feet. Mr. Hershner explained about the pictures the property owner provided to the board and survey pins which are located on the Brown's property within their circler driveway.

Mr. Hershner explained why the permit was issued when the home was first built and review the subdivision plat to explain the 50 feet setback from the panhandle. Mr. Hershner explained to the board about when he was called out to the property regarding the construction on the home and it was determined the property owner did not get a zoning permit for the porch but did come into the township and the county to get a permit. Mr. Hershner read into record Mr. John Miller email dated November 16, 2015 at 4:55 p.m.

Mr. Keating talked about corner of the house being 14.5 feet and he feels the home is a non-conforming use and the variance would need to be given on the roof. Mr. Hershner explained at the time a variance was not necessary after further research he found that he could approve the porch with the setbacks but not the covered porch without a variance.

Mr. Lembke talked about the front, rear, and side yard setback per the zoning resolution. Mr. Hershner read section 4.06 (F) (8) (a&b) from the zoning resolution. Mr. Hershner read the section 4.06 (F) (8) (b) and Mr. Lembke talked about the height of the porch and deeming the space between Mr. Golick & the Brown's property a side yard; then the side yard setback would then be 15 feet. Mrs. Holman asked Mr. Hershner asked about the front yard setback. Mr. Hershner explained about panhandle lots and front, side, and rear yard setbacks.

Mrs. Holman stated this property is laid out very strangely and we have to consider this variance as a hardship or not to have a roof over the front porch. Mr. Keating stated yes you are right; you need to consider this variance as a hardship so a roof can be added to the porch or a hardship for Mr. Golick to allow the roof on the porch. Mr. Hershner read section 6.01 (H) (1-4) & section 6.01 (I) of the zoning resolution.

Mr. Brown's testimony:

Mr. Brown from 901 Trevino Court asked Mr. Hershner is a zoning permit required to add a porch and a deck. Mr. Hershner stated yes; a permit is required for both a porch and a deck. Mr. Brown stated they have added \$60,000.00 of improvements to the home and found water damage to the front foyer from the water hitting the door. The floor in the foyer had sagged due to the water damage so this is the reason for adding the roof to the porch. Mr. Brown stated when fixing the issue with the water damage to the foyer; they found that the floor was replaced before so this is why they've added the roof to the porch so they would not have to replace the floor again. Mr. Brown stated the floor was falling so he corrected that by raising it and he will stay with the same architecture design.

Discussion

There was discussion between the board members on the variance request. Mrs. Holman asked Mr. Brown if they had an inspection of the home before purchasing the property. Mr. Brown stated Mr. Ferguson was a very motivated seller and he was a very progressive buyer but they were not actually looking to move but he has always wanted to live on Country Club and they purchased the home for a good price.

Ms. Baas; Mr. Golick's attorney stated that Mr. Brown testified that he knew there was water damage but the new porch corrected that but roof was not a necessity to have on the porch and they are getting closer and closer to Mr. Golick's home. Ms. Baas explained that the Brown's taking over Mr. Golick's property where the circle driveway without his consent, the Brown's starting trespassing onto Mr. Golick's property by removing the foliage and took out trees from Mr. Golick's property. Mrs. Holman stated to Ms. Baas this is not what we are here about. Ms. Baas stated this is why Mr. Golick is concerned about the variance been granted for the Brown's.

Mr. Lembke asked about the covering the porch approximately 8 feet from the property line; interfering with Mr. Golick's property and the Brown's keep getting closer & closer by extending the stairs and the walk way and some are on Mr. Golick's property and inches away. Ms. Baas stated the Browns have not given any information of what the roof will be.

Mrs. Holman asked Mr. Brown if he had a picture or a drawing on the porch and columns. Mr. Brown asked to see an aerial of his property. Mr. Keating explained if this board chooses to grant the variance that this board can add as a condition to have the roof architecturally

Mr. Brown showed the board about the property and cleaning up of the property from the aerial pictures in the power point and that Mr. Golick came out and thanked the Browns. Mr. Brown explained about the trees being dead and that he asked Mr. Golick next door neighbor about the dead trees and they stated they were having the trees removed. Mr. Brown explained that Mr. Golick did not have his dead trees removed.

Ms. Baas stated the house was permitted to be built exactly as it and that exact location with the exact porch that is on the home so there was no need to repair the exterior of the home. Ms. Baas stated the house is very odd shape, is very close to the property line, and in a very bad location.

Mr. Golick stated it's a he said she said here and I do not agree with Jason Brown. Mr. Golick talked about the 2012 aerial of his property and what it looked like before the Browns did to his property. Mr. Golick talked about the 2014 aerial of his property and how Mr. Brown cleared out trees & bushes on his property and stated he did not give permission to remove the trees and bushes from his property. Mr. Golick stated the trees and bushes were there for a reason and he bought his home that were completely surrounded by woods. He stated during the summer he now could see the Browns property and they came on his property without permission and it was wrong. Mr. Golick stated that Mr. Brown knew the circularly driveway was on my property and I did not know this because I had trees there. Then when he saw the Browns were clearing his property that is when I contacted HM Survey to complete a survey. Mr. Golick stated if the Brown's put the roof on the porch it will show and Mr. Golick reads his statement he prepared.

Mr. Brown stated we are getting a little off course here and he'd like to get back to why he wants a variance for a roof over the porch. As far as the fence goes, that is another matter. He would like to focus on why we are here. Mr. Keating stated he'd like to ask Ms. Baas & Mr. Golick a question. Mr. Keating asked if you could, would you have them remove the existing porch that was put there and if so, why. Mr. Golick asked if the photo of the Brown's property pictures could be shown and Mr. Golick showed Mr. Keating & the Board of Zoning Appeals the corner of the Browns property which is on his property. Ms. Baas stated to answer your question; then yes I would think he (Mr. Golick) would like for the roof to be removed because it's too close and if we measure the side yard; it's too close to Mr. Golick house. Mr. Keating asked how it would benefit you if the Browns had to get rid of their porch and how does that benefit you or help you if they did put a roof on the porch. Mr. Golick stated if they put a roof on the porch it will be closer and I heard some footage; then asked what the clearance of the roof is and I do not know what are the dimensions are to the property line. Mr. Hershner explained about the property line and the roof of the porch. Ms. Baas stated about the drainage issue with the roof and where the run off is going to be and how will they address that.

Mr. Keating asked how it helps you if they put on the roof on their home. Mr. Hershner stated what the board will have to approve is the roof. Mr. Lembke read from the zoning resolution regarding the variance approval process by the Board of Appeals and there are more issues than just this variance. Mr. Keating stated "Did the Brown's make this situation more difficult to cause this?" No, they did not build the home or create the water damage. Mr. Brown's driveway is 4/5 feet up Mr. Golick's side yard. Mr. Hershner stated the Clermont County Auditor's website lines of property are "not" always perfect. Ms. Baas stated the Brown's built the oversize porch and Mr. Gentile stated the porch is zoned and is in code with our zoning resolution.

Mrs. Brown stated the neighborhood and their home is beautiful and they only want to increase the property value not to cause or create issues. Mr. Golick stated he now can see their home after the trees were removed did not cause me to see their home. Mr. Brown explained they only cleaned their land and only their land.

Members of the Board of Appeals discussed hardship, weather, setbacks, location of the home, and height of roof.

MOTION

A motion was made by Mrs. Holman seconded by Mr. Lembke to accept variance C 5-2015 to approve the variance with the 17 ft. 10 in. roof height, roof over porch slab, being architecturally consistent with the existing structure with a hip roof. Roll call on Motion: All aye

Decision by Pierce Township Board of Zoning Appeals
Variance case number C-5-2015 901 Trevino Court
Jason & Terese Brown

Notice is hereby given that the Pierce Township Board of Zoning Appeals, at a public hearing held on November 18, 2015, considered Case number C-5-2015, wherein Applicants, Jason Brown and Terese Brown sought a variance to construct a covered front porch for their residence property, which would create an encroachment of either the front yard or the side yard required setbacks under the Pierce Township Zoning Code. After considering all testimony from applicants and adjacent neighbor, Mr. Golick, who was represented by counsel, Attorney Patricia A. Baas, the Board unanimously approved the requested variance upon Motion by Mrs. Holman and seconded by Mr. Lembke. The approval motion was amended to attach the condition to the variance that the front porch roof must be a continuation of the existing house roof which is 17 feet 10 inches in height, have a hip roof, cover the slab porch only and must be architecturally consistent with the existing architectural structure of the home and the existing hip roof. The motion to approve the variance was passed unanimously by the four Board members in attendance. This Notice is provided to the Applicants and all those who were in attendance at the public hearing.

Motion emailed to Mr. & Mrs. Jason Brown, Mr. Golick, Patricia Baas; Mr. Golick Attorney, John Cardarelli; HOA Vice-President, BZA Board, and Mr. Hershner; Administrator

CASE # A 1-2015

Mr. Gentile opens the hearing on case A1 -2015 to Mr. Hershner. Mr. Hershner explained the appeal request on the fence permit at 900 Trevino Court. Mr. Keating asked is the fence going to be in the front yard and is it allowed. Mr. Hershner stated yes and wholly on Mr. Golick's lot and it's going to be 4 feet high transparent in the front yard. Mr. Lembke asked if Mr. Golick deviated from the fence permit.

Mr. Brown stated the fence does not go with the neighborhood and the HOA does not allowed a fence in the front yard. Mr. Brown stated Mr. Golick knew the driveway was on his property last year and did not have a problem. Mr. Golick stopped the construction of the porch and the fence goes across our front yard. Mr. Lembke read the zoning resolution on the appeal process and talked about the HOA and referred to 4.01(F) in the zoning resolution. Mr. Lembke asked Mr. Brown do you have anything that shows Mr. Golick is doing anything wrong by putting the fence up. Mr. Brown talked about Country Club Estate properties does not have fences in the front yards.

Members of the Board of Appeals discussed hardship, zoning resolution, fence permit, and location of the home.

Mr. Keating stated did Mr. Hershner make a mistake in issuing the fence permit to Mr. Golick. Mr. Keating talked about the HOA rules; they may take legal actions or yourself. Mr. Lembke explained more on zoning resolution article 4.01(F), the zoning appeal process and asked if Mr. Hershner made a mistake when issuing the fence permit.

Mr. Brown asked for a continuation on the appeal to review the zoning resolution on the appeal. Ms. Baas talked about article 2.05(B) (Rules and Powers) from the zoning resolution.

MOTION

A motion was made by Mr. Lembke seconded by Mr. Gentile to grant applicant a continuance no longer than 30 days. Roll call on Motion: Mrs. Holman, No; Mr. Sander, No; Mr. Gentile, yes; Mr. Lembke, yes. Motion failed.

A motion was made by Mr. Lembke seconded by Mr. Gentile to deny appeal application for case A1-2015. Roll call on Motion: All aye

NEW BUSINESS

Members of the Board of Appeals discussed appointment of chair and vice chair for 2015-2016.

MOTION

A motion was made by Mr. Gentile seconded by Mr. Sander to appoint Mrs. Holman as Chair and Mr. Lembke as Vice Chair for November 29, 2015 through November 28, 2016. Roll call on motion: All aye

APPROVAL OF THE MINUTES

Approval of Minutes – October 20, 2015

Mr. Lembke made a motion, seconded by Mrs. Holman to approve the minutes of the October 20, 2015 as presented. Roll call on motion: All aye

ADJOURNMENT

At 8:50 PM Mrs. Holman made a motion to adjourn seconded by Mr. Lembke. Roll call on Motion: All aye

ATTESTED;

The foregoing minutes were approved by the Pierce Township Board of Zoning Appeals on May 9, 2016:

Lynn Holman, Chairman

Date

Mr. Hershner, Administrator

Date